

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	Escuela del Deporte
)	Billed Entity Number 16052523
Streamlined Resolution of Requests for)	Funding Year 2014
Related to Actions by the)	Form 471 Application No. 985994
Universal Service Administrative Company)	
)	Funding Request No. 2689151
Public Notice: DA No. 16-732)	
Released: June 29, 2016)	
)	CC Docket No. 02-6
Escuela del Deporte)	
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ATT: Chief,
Wireline Competition Bureau

PETITION FOR RECONSIDERATION

By: Lizabel M. Negrón-Vargas, Esq.
Municipality of San Juan
P.O. Box 360764
San Juan, PR 00936-0764
Tel: (787) 392-0450
Email: lizanegron@yahoo.com
*Attorney for the Escuela del Deporte in the
Municipality of San Juan*

DATE: July 28, 2016

SUMMARY

Escuela del Deporte of the Municipality of San Juan (hereinafter, the “Escuela del Deporte”) in the Commonwealth of Puerto Rico, hereby seeks reconsideration of the Wireline Competition Bureau's summary denial of its *Request for Review or Waiver* ("Appeal") relating to decisions of the Universal Service Administrator ("Administrator") to rescind and/or recover certain Schools and Libraries Support Mechanism ("E-Rate Program" or "Program") funding provided to the Escuela del Deporte for Funding Year ("FY") 2014; for the following reasons:

1. The Commission erred in concluding that the Escuela del Deporte's competitive bidding process was not fair and open, and that it was compromised because of improper conduct by the applicant, service provider, or both parties; when evidence was submitted **under penalty of perjury** that it was an involuntary error due to a language barrier in answering "yes" to the Question C in USAC's letter dated October 16, 2014 for **Funding Request No. 2689151**, whether a service provider employee provided assistance with the completion of our Form 470; and that **no assistance was received from the service provider in this regard.**

2. The Commission's summary disposition does not indicate that it considered this submission as it summarily denied the Appeal, with a mere footnote citing inapplicable precedent relating to applicants' failure to include sufficient information on its FCC Form 470 to enable prospective service providers to identify and formulate bids. The Commission made no reference to precedent relating whether the service provider improperly assisted the applicant with Form 470; **which did not occur here.**

3. The Commission's summary disposition is arbitrary and inconsistent with previous orders with respect to waivers and review relating to the **same involuntary error, in the same FY2014**, by the Escuela del Deporte, due to a language barrier in answering "yes" to the Question C in USAC's letter

dated October 16, 2014, in a **different Funding Request (Number: 2690129)**. Although the Escuela del Deporte set forth the same clarification (as it was under identical set of facts), the appeal in FRN **2690129** **was granted**, permitting the School of San Juan I to continue to participate in the E-rate program, but the instant Appeal in FRN**2689151**, was **denied**.

4. There is no indication in the Notice that the Commission ever considered the request for waiver that was included in the Appeal; and as a matter of procedural fairness, the Escuela del Deporte is entitled to understand how its request failed to meet the Commission's waiver standard.

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To: Chief, Wireline Competition Bureau

PETITION FOR RECONSIDERATION

This is a Petition for Reconsideration ("Petition") from the *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, Public Notice, DA 16-732, released June 29, 2016, CC Docket no. 02-06 in which the Commission summarily denied its *Request for Review or Waiver* ("Appeal") relating to decisions of the Universal Service Administrator ("Administrator") to rescind and/or recover certain Schools and Libraries Support Mechanism ("E-Rate Program" or "Program") funding provided to the Escuela del Deporte for Funding Year ("FY") 2014 for Funding Request No. 2689151. The denied *Request for Review or Waiver* was originally filed on December 11, 2015, and this Petition is timely filed in accordance with Section 1.106 of the Commission's Rules. See 77 C.F.R. §1.106.

The Escuela del Deporte submits reconsideration is warranted for the following reasons:

1. The Commission erred in concluding that the Escuela del Deporte's competitive bidding process was not fair and open, and that it was compromised because of improper conduct by the applicant, service provider, or both parties; when evidence was submitted **under penalty of perjury** that it was an involuntary error due to a language barrier in answering "yes" to the Question C in USAC's letter dated

October 16, 2014 for **Funding Request No. 2689151**, whether a service provider employee provided assistance with the completion of our Form 470; and that **no assistance was received from the service provider in this regard.**

2. The Commission's summary disposition does not indicate that it considered this submission as it summarily denied the Appeal, with a mere footnote citing inapplicable precedent relating to applicants' failure to include sufficient information on its FCC Form 470 to enable prospective service providers to identify and formulate bids. The Commission made no reference to precedent relating whether the service provider improperly assisted the applicant with Form 470; **which did not occur here.**

3. The Commission's summary disposition is arbitrary and inconsistent with previous orders with respect to waivers and review relating to the **same involuntary error, in the same FY2014**, by the Escuela del Deporte, due to a language barrier in answering "yes" to the Question C in USAC's letter dated October 16, 2014, in a **different Funding Request (Number: 2690129)**. Although the Escuela del Deporte set forth the same clarification (as it was under identical set of facts), the appeal in FRN **2690129 was granted**, permitting the Escuela del Deporte to continue to participate in the E-rate program, but the instant Appeal in FRN**2689151**, was **denied**.

4. There is no indication in the Notice that the Commission ever considered the request for waiver that was included in the Appeal; and as a matter of procedural fairness, the Escuela del Deporte is entitled to understand how its request failed to meet the Commission's waiver standard.

I. KEY BACKGROUND FACTS

A. The Schools

The **Escuela del Deporte** and the **School of San Juan I**, as well as the **Escuela Especializada en Matemáticas, Ciencias y Tecnología**, operate under the jurisdiction of the Municipal Educational System of the City of San Juan, Puerto Rico ("the Schools"). E-rate funds are critical to our ability to

bring Internet access into the classroom and offer students with a 21st Century education that will allow them to compete in an increasingly global economy. Puerto Rico is divided into seventy-eight (78) “municipalities.” Each municipality has a mayor and a legislature. San Juan is Puerto Rico’s capital and most populous municipality.

The economy in Puerto Rico has been in a very serious recession for nearly ten years, driving tax revenues down and pushing the unemployment rate up to over fifteen (15) percent.¹ Almost forty-seven (47) percent of residents in Puerto Rico live below the poverty line (by comparison, the poverty rate in Mississippi, the poorest state in the United States, is twenty-three (23) percent). Unfortunately, a disproportionate number of those living below the poverty line are children. According to a 2013 study conducted by the Annie E. Casey Foundation and the National Council of La Raza using data from the U.S. Census American Community Survey, more than eighty (80) percent of children in Puerto Rico live in high-poverty areas (in contrast to eleven (11) percent of children across the United States) and fifty-six (56) percent of Puerto Rican children live in poverty (compared with twenty-two (22) percent for the entire United States).² San Juan, being Puerto Rico’s largest city, is home to a disproportionately large number of these impoverished children. The economic situation in Puerto Rico is so precarious that the Obama Administration recently named a team of Administration experts to work with Puerto Rico “to marshal existing federal resources” and assist Puerto Rico in “maximizing the impact of existing federal

¹ Michael A. Fletcher, *Puerto Rico, With At Least \$70 Billion In Debt, Confronts a Rising Economic Misery*, The Wash. Post, November 30, 2013, available at: http://www.washingtonpost.com/business/economy/puerto-rico-with-at-least-70-billion-in-debt-confronts-a-rising-economic-misery/2013/11/30/f40a22c6-5376-11e3-9fe0-fd2ca728e67c_story.html (last visited January 14, 2014).

² Dania Alexandrino, *Study: Puerto Rico's children mired in poverty that dwarfs rest of U.S.*, CNN, August 1, 2013, available at: <http://www.cnn.com/2013/08/01/us/puerto-rico-child-poverty> (last visited January 14, 2014).

funds flowing to the Island.”³ If USAC’s decisions are left to stand, the results would be devastating to Escuela del Deporte and the hundreds of low income students it serves.

In addition, given the precarious state of Puerto Rico’s economy, it is not surprising that our students, who are mostly living under the poverty levels – rely on the Schools for their main (and sometimes only) source of Internet access. In case of the absence of the Commission’s reconsideration of its summary denial grant of the Request for the Review or Waiver, the Escuela del Deporte would most probably have to cease providing access to all Internet services to its students. E-Rate funding is critical to Puerto Rico’s economy and to the Escuela del Deporte's students and faculty.

B. FCC Forms 470s and 471

Both, the Escuela del Deporte and the School of San Juan I, posted a Form 470 for FY 2014 for Internal Connections and Basic Maintenance for Connections. As has been set forth under penalty of perjury, **no assistance was received from the service provider in this regard.** The School received proposals from seven vendors. One vendor withdrew its bid, and another submitted an incomplete proposal, and was disqualified. Based on an evaluation of the five remaining proposals, Service Provider A New Vision in Educational Services & Materials (NEVESEM) d.b.a Dreyfous & Associates, SPIN 143022659, was selected. See Exhibits attached.

Because USAC did not issue a Funding Commitment Decision Letter "FCDL" until the end of the funding year in question (May 13, 2015), we started receiving Internet access service from our selected vendor after following all of the program's rules with the expectation that a positive FCDL would be issued. Now we find ourselves in an extremely difficult position because, after having received

³ *Supporting Puerto Rico’s Economic Development Progress*, The White House, President Obama and the Hispanic Community, Nov. 21, 2013, available at: <http://www.whitehouse.gov/blog/2013/11/21/supporting-puerto-rico-s-economic-development-progress> (last visited January 14, 2014).

Internet service from our vendor for the entire funding year, USAC's decision not to fund the application means that we could be liable to our vendor. We qualify for a ninety (90) percent discount, which in this case amounts to \$61,020.00.

II. THE ORIGINAL APPEALS

Although this Petition only relates to the Escuela del Deporte, we are including the crucial details regarding another appeal for FY2014 of the School of San Juan I, as they are pertinent to the instant Appeal.

A. The Escuela del Deporte Appeal

The Escuela del Deporte received a Funding Commitment Decision Letter ("FCDL") issued by Universal Service Administrative Company (USAC) on May 13, 2015, denying its FCC Form 471 Application Number 985994 seeking E-rate funds for Internet service for Funding Year 2014 on the basis of "bidding violation." The FCDL stated the following reason for the denial:

Your FRN is denied because you indicated in response to the Administrator's Information Request that you received any assistance from Service Provider A New Vision in Educational Services & Materials (NEVESEM) d.b.a Dreyfous & Associates, SPIN 143022659, in the creation of the referenced FCC Form 470 for the FRN. A service provider that participates in the competitive bidding process as a bidder cannot be involved in the preparation or certification of the entity's FCC Form 470. In addition, you indicated that the service provider supplied you with the list of services to request on your FCC Form 470. This action constitutes improper service provider involvement and the FRN is denied.

On June 26, 2015 the Escuela del Deporte responded to the FCDL and respectfully requested that this appeal be granted to permit us to continue to participate in the E-rate program, explaining that the negative FCDL was the result of a complete misunderstanding on our part regarding USAC's questions. In this regard, we asked USAC to take into consideration the fact that Spanish is the first language of all

of our personnel, including the Director. In reviewing the negative FCDL we realized that we had indicated “yes” in response to the Question C in USAC’s letter dated October 16, 2014 for **Funding Request No. 2689151**, whether a service provider employee provided assistance with the completion of our Form 470. We also made the following statement: *“We procure the advice of our service provider’s to fill the FCC Forms due to a professional relationship through a contract of services with our schools systems and for its expertise in this technical field.”*

However, in our June 26, 2015 letter, it was unequivocally stated that **no assistance was received from the service provider in this regard.** And, that we responded to this question incorrectly because was USAC’s question was misunderstood. As explained therein, when we read Question “C”, we focused on the words “assist” and “assistance” in general terms and did not realize that the question was whether we received assistance in the completion and/or posting of Form 470. By focusing only on the words “assist” and “assistance” in Question C, we understood USAC was asking if we had ever received **any** assistance from a vendor. It was explained that our answer was “yes” for two reasons:

(1) We first learned about the E-rate program from NEVESEM, at which time they offered an explanation of what the program is, what services are eligible, the existence of extensive reference materials on USAC’s website, and the need to obtain a billed entity number in order to conduct business with USAC. This is the type of “assistance” we were referring to when we said we received assistance with respect to *“how to enroll and get the entity numbers for our schools.”* **This type of “assistance,” of course, is unrelated to the filing of our Form 470.**

(2) We selected NEVESEM as our service provider for Funding Year 2014. In the context of that vendor-customer relationship – they have been of assistance to us by answering technical questions and providing customer support. Those questions related to installation and maintenance issues, equipment performance, equipment life expectancy, etc. Thus, when we said we received assistance with respect to *“how to identify the services that we need in accordance to the assessment of necessities in the schools,”* we meant to say that we received technical, non-Form 470 application related assistance in the context of an ongoing vendor-customer contractual relationship. This technical assistance, while useful to us in evaluating the

effectiveness of our current services in light of our technology needs, was **completely unrelated to the filing of our Form 470.**

We also clarified the following statement in our response: “*We procure the advice of our service provider’s to fill the FCC Forms due to a professional relationship through a contract of services with our schools systems and for its expertise in this technical field.*” When we made this statement **we were not referring to Form 470.** Instead, we were referring to the fact that we need information from the service provider in order to complete the **Item 21 Attachment in Form 471.** As you know, the Item 21 Attachment must include detailed equipment information such as make and model, which the service provider is best suited to provide.

In sum, it was stated that we misunderstood USAC’s question. We believe this misunderstanding is due to the fact that the questions were in English and the primary language of those working on E-rate matters for the school is Spanish. We further expressed deep regret as to this misunderstanding and took this opportunity to correct each of our statements. USAC’s question was whether we received *assistance* from a service provider *with the completion and/or posting of our Form 470.* The answer to that question is unequivocally “NO.” We did not receive any assistance from NEVESEM or any other service provider in the creation and posting of Form 470. And, had we understood USAC’s question correctly, we would have answered “NO.”

The only persons who prepared our Form 470 were the following individuals:

Ms. Luz Laboy
Special Assistant
Municipal Education System
City of San Juan

Mr. Salvador Soto
Group Leader
Municipal Education System
City of San Juan

Evelyn Lafontaine, Ed.D.
Acting Director
Municipal Education System
City of San Juan

Ms. Laboy and Mr. Soto are officials of the Municipal Education System and they were appointed by the undersigned, Evelyn Lafontaine, also an official of the Municipal Education System, to perform this task because of their professional background and expertise in dealing with matters concerning the Municipality's Education System, including issues related to grants and other programs that may benefit our schools. None of these individuals have an employee-employer relationship with the service provider NEVESEM. Further, Form 470 was completed and submitted from a computer at the Municipal Education System's offices, which are located at: Municipal Tower Building, 8th Floor, 161 Chardon Street, Hato Rey, Puerto Rico 00902.

Finally, it was stated that we understand that a service provider that participates in the competitive bidding process as a bidder cannot be involved in the preparation or certification of an applicant's Form 470. That we fully complied with this requirement because the Form 470 was prepared and completed by our own personnel without outside assistance and there was no improper service provider involvement, for which the FRN should not have been denied.

B. The School of San Juan I Appeal

On the same date, May 13, 2015, the School of San Juan also received an FCDL issued by Universal Service Administrative Company (USAC) denying FCC Form 471 Application Number 986299 seeking E-rate funds for Internet service for Funding Year 2014 on the basis of "insufficient documentation", in response to the Administrator's Information Request issued to determine if you received any assistance from Service Provider A New Vision in Educational Services & Materials (NEVESEM) d.b.a Dreyfous & Associates, SPIN 143022659, in the creation of the referenced FCC Form 470 for the FRN. To wit:

Your FRN is denied because no documentation was provided in response to the Administrator's Information Request issued to determine if you

received any assistance from Service Provider A New Vision in Educational Services & Materials (NEVESEM) d.b.a Dreyfous & Associates, SPIN 143022659, in the creation of the referenced FCC Form 470 for the FRN. A service provider that participates in the competitive bidding process as a bidder cannot be involved in the preparation or certification of the entity's FCC Form 470. Despite multiple attempts, you failed to respond to the Administrators Special Compliance Review Information Request. Since a response was not received, we are unable to make a positive determination that you conducted a fair and open competitive bidding process free from any improper service provider involvement and the FRN is denied. Additionally, you were asked how you determined the services to request on your FCC Form 470. Program rules state that applicants submit "bona fide requests for services." Per the FCC's Ysleta Order, an applicant's FCC Form 470 must detail specific services sought in a manner that would allow bidders to understand the specific technologies that the applicant is seeking. Thus, a Form 470 that sets out virtually all elements that are on the eligible services list would not allow a bidder to determine what specific services the applicant was seeking. Since you failed to respond to the Administrators Special Compliance Review Information Request, we are unable to make a positive determination that the services requested on the FCC Form 470 represent a bona fide request for services and the FRN is denied.

On June 26, 2015 the School of San Juan I responded to the FCDL and respectfully requested that this appeal be granted to permit us to continue to participate in the E-rate program, deeply regretted any misunderstanding regarding its response to USAC and took this opportunity to address the two issues of concern to USAC as stated in the FCDL, which we believed that once clarified, would lead USAC to conclude that we did not violate the E-rate program rules.

Issue #1. We did not receive any assistance from Service Provider A New Vision in Educational Services & Materials (NEVESEM) d.b.a. Dreyfous & Associates, SPIN 143022659, in the creation of the referenced FCC Form 470 for Funding Request Number 2690129.

The persons who prepared our Form 470 were the following individuals:

Luz Laboy
Special Assistant
Municipal Education System
City of San Juan
161 Chardon Street
Hato Rey, Puerto Rico 00902

Salvador Soto
Group Leader
Municipal Education System
City of San Juan
161 Chardon Street
Hato Rey, Puerto Rico 00902

Tel: (787) 480-6549
Fax: (787) 725-8890
E-mail: llaboy@sanjuanciudadpatria.com

Tel: (787)480-6548
Fax: (787)725-8890
E-mail: ssoto@sanjuanciudadpatria.com

Evelyn Lafontaine, Ed.D.
Acting Director
Municipal Education System
City of San Juan
161 Chardon Street
Hato Rey, Puerto Rico 00902
Tel: (787) 480-4674
Fax: (787) 725-8890
E-mail: elafontaine@sanjuanciudadpatria.com

As previously stated in the Escuela del Deporte appeal, Ms. Laboy and Mr. Soto are officials of the Municipal Education System and they were appointed by the undersigned, Evelyn Lafontaine, also an official of the Municipal Education System, to perform this task because of their professional background and expertise in dealing with matters concerning the Municipality's Education System, including issues related to grants and other programs that may benefit our schools. None of these individuals have an employee-employer relationship with the service provider NEVESEM. And, in the same manner as the Escuela del Deporte Appeal, it was stated that Form 470 was completed and submitted from a computer at the Municipal Education System's offices, which are located at: Municipal Tower Building, 8th Floor, 161 Chardon Street, Hato Rey, Puerto Rico 00902.

Further, the same paragraph was set forth in this appeal as in the Escuela del Deporte appeal:

We understand that a service provider that participates in the competitive bidding process as a bidder cannot be involved in the preparation or certification of an applicant's Form 470. We fully complied with this requirement because the Form 470 was prepared and completed by our own

personnel without outside assistance. To be clear, NEVESEM did not assist us with the creation, completion and/or posting of the Form 470.

Issue #2, regarding whether Form 470 was generic or encyclopedic, was amply discussed in the appeal, but will not be further discussed, as it is not pertinent to this Petition.

C. USAC's conflicting decisions: denial of appeal by the Escuela del Deporte; approval of appeal by the School of San Juan I.

As demonstrated above, the basis for both negative FCDLs relating to the Escuela del Deporte and the School of San Juan I was the (incorrect) finding that we received assistance in the completion and/or posting of Form 470 from the service provider in violation of the Commission's rules. And, as demonstrated above, regarding this charge, **the Escuela del Deporte and the School of San Juan set forth the exact response**; except that it in the case of the School of San Juan I, it also addressed a second separate issue relating to Form 470, as to whether enough details regarding the specific services sought were provided in a manner that would allow bidders to understand the specific technologies that the applicant is seeking.

Notwithstanding the above, the Escuela del Deporte received the *Administrator's Decision on Appeal - Funding Year 2014-2015*, issued on October 19, 2015, addressed to Dr. Evelyn Lafontaine, Acting Director of the Municipal Education System in the Municipality. The *Administrator's Decision on Appeal - Funding Year 2014-2015* stated the exact same reason for the denial as the FCDL:

The above listed funding request (FRN) is denied because you indicated in response to the Administrator's Information Request that you received any assistance from Service Provider A New Vision in Educational Services & Materials (NEVESEM) d.b.a Dreyfous & Associates, SPIN 143022659, in the creation of the referenced FCC Form 470 for the FRN. A service provider that participates in the competitive bidding process as a bidder cannot be involved in the preparation or certification of the entity's FCC Form 470. In addition, you indicated that the service provider supplied you with the list of services to request on your FCC Form 470. This action constitutes improper service provider involvement and the FRN was denied.

In your appeal, you did not demonstrate that USAC's decision was incorrect. Consequently, your appeal is denied.

This was very surprising since just a few days prior, on October 13, 2015 the *Administrator's Decision on Appeal - Funding Year 2014-2015* informed Dr. Lafontaine that the appeal for the School of San Juan had been "**Approved**", and that "**Your appeal has brought forward persuasive information that the funding request cited above should be approved for funding.**"

These decisions are clearly inconsistent and clearly support this Petition, as two separate appeals under the **exact same factual scenario and arguments**, render completely different results. One "**brought forward persuasive information that the funding request cited above should be approved for funding**" and the other did not while submitting the **exact same persuasive information**.

III. THE FCC APPEAL: DENIAL AND RECONSIDERATION

The Escuela del Deporte timely requested on December 11, 2014 that the denial and rescission of the FRN at issue be reversed and that the underlying applications be remanded to USAC for further processing. In addition, and in the alternative, the Escuela del Deporte requested a waiver of the Commission's rules.

However, on June 29, the Commission summarily denied the Appeal through its *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, Public Notice, DA 16-732, CC Docket no. 02-06. This notice listed the Appeal as "**Denied**" citing in *Footnote 14* that:

See, e.g., Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District et al.; Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 26407, 26422, para. 36 (2003) (clarifying that the requirement for a bona fide request for services means that "applicants must submit a list of specified services for which they anticipate they are likely to seek discounts consistent with their technology plans, in order to

provide potential bidders with sufficient information on the FCC Form 470, or on an RFP cited in the FCC Form 470, to enable bidders to reasonably determine the needs of the applicant”); *Request for Review of the Decision of the Universal Service Administrator by Washington Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13746, 13747-48, paras. 3-5 (WCB 2013) (finding that the applicant violated the Commission’s competitive bidding requirements by failing to include sufficient information on its FCC Form 470 to enable prospective service providers to identify and formulate bids).

No other reasons for denial were listed or explained and the request for waiver of these violations that was requested in the Appeal was neither mentioned nor addressed. The Commission's summary disposition does not indicate that it considered this submission as it summarily denied the Appeal, with a mere footnote citing inapplicable precedent relating to applicants' failure to include sufficient information on its FCC Form 470 to enable prospective service providers to identify and formulate bids. The Commission made no reference to precedent relating whether the service provider improperly assisted the applicant with Form 470; **which did not occur here**, nor of the conflicting decisions regarding the Schools' appeals for FY2014.

It is respectfully requested that this Petition be acted on by the Commission pursuant to 47 C.F.R. § 1.106 (b) (2) (1). It is timely, and the Escuela del Deporte's interests were adversely affected by the action taken in the denial of its Appeal and its waiver request. Further, this Petition relies on arguments relating to events which occurred after the *Request for Review and/or Waiver* was submitted, specifically that the Commission's June 29, 2016 denial of its Appeal makes it impossible to understand the reasons for this action, as it relied merely cited inapplicable precedent in a footnote relating to applicants' failure to include sufficient information on its FCC Form 470 to enable prospective service providers to identify and formulate bids, and made no reference to precedent relating the charged conduct: whether the service provider improperly assisted the applicant with Form 470.

IV. WAIVER REQUEST WAS NOT ADDRESSED.

Furthermore, this Petition should be granted because it does not appear that the Commission, in using the streamlined process, considered or even assessed the Escuela del Deporte's waiver request. This arbitrary action warrants reconsideration. See *Motor Vehicle Mfs. Assn. v. State Farm Mut. Auto Ins. Co.*, 463, U.S. 29, 43 (1983).

As previously stated, the Escuela del Deporte submitted a **wrong answer** to Question C in USAC's letter dated October 16, 2014, and it was acknowledged that we indicated "yes" in response to the question above, incorrectly **because we misunderstood USAC's question**. USAC's question was whether we received *assistance* from a service provider *with the completion and/or posting of our Form 470*. The answer to that question is unequivocally "NO." We did not receive any assistance from NEVESEM or any other service provider in the creation and posting of Form 470. Had we understood USAC's question correctly, we would have answered "NO." See **Declaration Under Penalty of Perjury of Evelyn Lafontaine, Ed. D.**

Given the circumstances here, failure to review USAC's denial would be most unfortunate because no improper service provider involvement occurred. We fully complied with the requirement that a service provider that participates in the competitive bidding process as a bidder cannot be involved in the preparation or certification of an applicant's Form 470. Our Form 470 was prepared and completed by our own personnel without outside assistance. Thus, it is respectfully requested that this Commission should overturn the denial and restore full funding of the FRN by allowing a waiver to rules and accept our amendment to USAC's question C, because ultimately the Escuela del Deporte **did not receive any assistance from NEVESEM or any other service provider in the creation and posting of Form 470**. There was no improper service provider involvement and the FRN should not be denied.

The monies received from USAC have been earmarked for good and valuable services received from a service provider who was selected through a fair and unbiased competitive bidding process and who, as an undisputed fact, offered the lowest cost proposal. This is a good use of E-rate funds. Under these facts, the Commission should exercise its discretion to waive its rules because strict compliance would be completely inconsistent with the public interest.

IV. CONCLUSION

For the reasons set forth above, the Escuela del Deporte respectfully requests that the Commission reconsider the summary denial contained in the *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, Public Notice, DA 16-732, released June 29, 2016, CC Docket no. 02-06 with respect to its E-Rate application for Funding Year 2014.

RESPECTFULLY SUBMITTED.

ESCUELA DEL DEPORTE



Lizabel M. Negrón-Vargas, Esq.

Municipality of San Juan

P.O. Box 360764

San Juan, PR 00936-0764

Tel: (787) 392-0450

Email: lizanegron@yahoo.com

*Attorney for the Municipality of San Juan's
Escuela del Deporte*

Date: **July 28, 2016**

Filed via **ECFS**